

**2001 Jr2 DRAFTING REQUEST**

**Assembly Amendment (AA-AB1)**

Received: 03/06/2002

Received By: jkreye

Wanted: Today

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Schug

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters: kunkemd

Subject: Trade Regulation - other

Extra Copies:

Submit via email: NO

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**Pre Topic:**

LFB:.....Schug -

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**Topic:**

Yank provisions related to electronic mail solicitations and information obtained from Internet Web site users

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 03/06/2002	jdyer 03/06/2002	pgreensl 03/06/2002		lrb_docadmin 03/06/2002		

FE Sent For:

<END>

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/1	jkreye	1 3/6 jld	3/6 ps	3/6 sets			

FE Sent For:

<END>

LFB

Dave Schug

6-8086

Yank

LRB-4574/3

DOA:.....Mawdsley – Electronic mail solicitations and information obtained from Internet web site users

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** certain electronic mail solicitations, representations and  
2 chain letters, collection of certain information from visitors to Internet Web  
3 sites and providing a penalty.

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*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT**  
**COMMERCE**

***Electronic mail prohibitions***

The bill prohibits the user of an electronic mail service from sending an electronic mail solicitation or chain letter that uses the service provider's equipment in a manner that violates the provider's solicitation or chain letter policy. "Electronic mail solicitation" is defined as an electronic mail message sent for personal gain or compensation, or in expectation of personal gain or compensation, to encourage a person to purchase property, goods or services or to visit a Web site on the Internet. "Chain letter" is defined as an electronic mail message sent to more than one recipient that requests each recipient to send copies of the message to other recipients. The bill also prohibits any person from sending an electronic mail message or chain letter to an Internet user that uses the equipment of the Internet user's electronic mail service provider in a manner that violates the provider's

solicitation or chain letter policy. The bill defines "Internet user" as a person that maintains an electronic mail address with an electronic service provider.

The above prohibitions apply only if the electronic mail service provider displays the solicitation or chain letter policy on the home page of its Internet Web site and makes printed copies of the policy available at no charge. The bill provides for damages for an electronic mail service provider that is injured by a person who violates either prohibition more than 30 days after the policy is displayed on the home page. If such an injury occurs, the electronic mail service provider is entitled to the greater of: 1) the amount of actual damages; 2) \$15,000; or 3) \$50 for each electronic mail solicitation or chain letter that violates the policy.

The bill also prohibits a person from sending an electronic mail solicitation unless the person includes, with the solicitation, a return electronic mail address or notice of a toll-free telephone number that the recipient may use to notify the person that the recipient does not want to receive solicitations. If the recipient provides such notice to the person, the bill prohibits the person from sending another solicitation to the recipient. The bill requires DATCP to investigate complaints about persons that violate this prohibition, and allows DATCP or any district attorney to bring an action on behalf of the state for an injunction or other relief. In addition, a person that violates the prohibition may forfeit no more than \$10 for each solicitation that violates the prohibition, subject to a maximum forfeiture of \$1,000 per day in which a violation occurs.

In addition, the bill prohibits a person from knowingly sending an electronic mail message that represents either of the following: 1) that the message is from another person without the consent of that person; or 2) that the message is from an Internet domain name without the consent of the person that registered the name. The bill defines "Internet domain name" as a name identifying a person's Internet address that the person has registered with an organization that assigns and maintains names for Internet addresses. A person that violates this prohibition may be fined not more than \$10,000, imprisoned for not more than two years, or both. For a second violation, the length of imprisonment increases to no more than five years.

### ***Internet privacy***

The bill imposes certain requirements on persons that maintain Web sites for purposes of doing business in this state. First, such a person may not disclose, in exchange for money or anything else of value, information about a state resident that is obtained from the resident's use of the Internet, unless the resident consents to the disclosure. Second, such a person may not request a child to provide information to the person through the Internet that includes personal information about the child, unless the person makes a reasonable effort to obtain the consent of the child's parent or legal guardian. The bill defines "reasonable effort to obtain consent" to include requiring the parent or guardian to mail or send a facsimile consent form, provide a credit card number or provide an electronic signature. A person that violates these prohibitions may forfeit no more than \$10,000 for each violation. In addition, the bill allows DOJ to commence an action for an injunction to restrain a violation.

The bill also requires a person that maintains a Web site for purposes of doing business in this state to display a notice on the home page of the Web site that

describes any information that the person collects about visitors to the Web site, including any information that is sold or provided to third parties. If the person sells or provides information to third parties, the person must allow a visitor to the Web site to notify the person whether or not the visitor consents to the sale or provision of information. If a visitor notifies the person that the visitor does not consent, the person may not sell or provide the information. A person that violates any of these requirements may forfeit no more than \$10,000.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** Chapter 141 of the statutes is created to read:

2   **CHAPTER 141**

3   **INTERNET TRANSACTIONS**

4           **141.01 Definitions.** In this chapter:

5           **(1)** “Child” means a resident who is less than 15 years of age.

6           **(1g)** “Department” means the department of agriculture, trade and consumer  
7 protection.

8           **(1m)** “Display on a home page” means to display in written form on a home page  
9 or at an Internet address that is readily accessible through a link on a home page.

10           **(1s)** “Electronic chain letter” means an electronic mail message that is sent to  
11 more than one recipient with a request that each recipient send copies of the message  
12 to other recipients.

13           **(2)** “Electronic mail service provider” means any person that is an intermediary  
14 in sending or receiving electronic mail and that provides to Internet users the ability  
15 to send or receive electronic mail.

16           **(3)** “Electronic mail solicitation” means an electronic mail message that a  
17 person sends for personal gain or compensation, or in the expectation of personal

1 gain or compensation, to encourage another person to purchase property, goods, or  
2 services or to visit a Web site.

3 (4) “Home page” means the first page of a Web site that is displayed when a  
4 person visits the computer address of the Web site.

5 (5) “Internet domain name” means a name identifying the Internet address of  
6 a person on the Internet that the person has registered with an organization that  
7 assigns and maintains names for Internet addresses, including the Internet  
8 Network Information Center, the U.S. Domain Name Registration Services, or any  
9 successor organization.

10 (6) “Internet user” means a person that maintains an electronic mail address  
11 with an electronic mail service provider.

12 (7) “Public Web site” means a Web site that is accessible at no charge to a person  
13 who visits the Web site.

14 (8) “Resident” means an individual who is a resident of this state.

15 (9) “Send” means to initiate the transmission of an electronic mail message, but  
16 does not include any transmission of the message by an electronic mail service  
17 provider.

18 (10) “Solicitation or chain letter policy” means the policy of an electronic mail  
19 service provider regarding the sending of electronic mail solicitations or electronic  
20 chain letters by or to the provider’s Internet users.

21 (11) “Web site” means a collection of related computer files on the Internet that  
22 is located at an Internet address.

23 **141.02 Electronic mail. (1) SOLICITATION OR CHAIN LETTER POLICY VIOLATIONS.**

24 (a). Subject to par. (b):

1           1. No Internet user of an electronic mail service provider may send an electronic  
2 mail solicitation or electronic chain letter that uses the equipment of the provider in  
3 a manner that violates the provider's solicitation or chain letter policy.

4           2. No person may send an electronic mail solicitation or electronic chain letter  
5 to an Internet user that uses the equipment of the Internet user's electronic mail  
6 service provider in a manner that violates the provider's solicitation or chain letter  
7 policy.

8           (b) The prohibitions under par. (a) apply only to a solicitation or chain letter  
9 policy that an electronic mail service provider displays on the home page of the  
10 provider's Web site and makes available in printed form at no charge upon request.

11           (c) An electronic mail service provider who is injured by a violation of par. (a)  
12 that occurs more than 30 days after the solicitation or chain letter policy is displayed  
13 on the provider's home page may bring an action against the person who violated par.  
14 (a) and is entitled to each of the following:

15           1. The greater of the amount of actual damages, \$15,000 or an amount equal  
16 to \$50 for each electronic mail solicitation or electronic chain letter that uses the  
17 provider's equipment in a manner that violates the provider's solicitation or chain  
18 letter policy.

19           2. Notwithstanding s. 814.04, costs, disbursements, and reasonable attorney  
20 fees.

21           **(1m) ELECTRONIC MAIL SOLICITATIONS.** (a) No person may send an electronic mail  
22 solicitation unless the person includes with the solicitation a return electronic mail  
23 address or notice of a toll-free telephone number that the recipient of the solicitation  
24 may use to notify the person that the recipient does not want to receive electronic  
25 mail solicitations.



1 (b) If a recipient of an electronic mail solicitation uses a return electronic mail  
2 address or toll-free telephone number specified in par. (a) to notify the person that  
3 sent the electronic mail solicitation that the recipient does not want to receive an  
4 electronic mail solicitation, the person may not send another electronic mail  
5 solicitation to the recipient. A recipient who receives an electronic mail solicitation  
6 that violates this paragraph may complain to the department.

7 (c) The department shall investigate each complaint concerning a violation of  
8 par. (b). The department or any district attorney may on behalf of the state bring an  
9 action for temporary or permanent injunctive or other relief for any violation of par.  
10 (b), or for the penalties specified in par. (d), or for both.

11 (d) Any person who violates par. (b) may be required to forfeit not more than  
12 \$10 for each electronic mail solicitation that violates par. (b), subject to a maximum  
13 forfeiture of \$1,000 for each day in which a violation occurs.

14 **(2) PROHIBITED REPRESENTATIONS.** No person may knowingly send an electronic  
15 mail message that represents the message is from another person without the  
16 consent of that person, or that represents the message is from an Internet domain  
17 name without the consent of the person who has registered the name. Whoever  
18 violates this subsection may be fined not more than \$10,000 or imprisoned for not  
19 more than 2 years or both. For a 2nd or subsequent violation of this subsection, a  
20 person may be fined not more than \$10,000 or imprisoned for not more than 5 years  
21 or both.

22 **141.03 Internet privacy. (1) CONSENT REQUIRED.** (a) A person that maintains  
23 a Web site for the purpose of doing business in this state may not disclose to another  
24 person, for money or anything else of value, any information about a resident that

1 is obtained from the resident's use of the Internet, including from an electronic mail  
2 message sent by the resident, without the consent of the resident.

3 (b) A person that maintains a Web site for the purpose of doing business in this  
4 state may not request a child to provide information through the Internet to the  
5 person that includes personal information about the child without making a  
6 reasonable effort to obtain the consent of the child's parent or legal guardian. For  
7 purposes of this paragraph, a "reasonable effort to obtain consent" includes requiring  
8 a child's parent or guardian to mail or send a facsimile consent form to the person,  
9 provide a credit card number to the person, or provide an electronic signature, as  
10 defined in s. 137.11 (8), to the person.

11 (c) A person who violates par. (a) or (b) may be required to forfeit not more than  
12 \$10,000 for each violation. Each disclosure of or request for information about one  
13 resident or child constitutes a separate violation.

14 (d) The department of justice may commence an action in circuit court in the  
15 name of the state to restrain by temporary or permanent injunction any act or  
16 practice constituting a violation of par. (a) or (b).

17 (2) WEB SITE ACCESS. (a) A person that maintains a Web site for the purpose  
18 of doing business in this state shall do each of the following:

19 1. Display a notice on the home page of the Web site that states whether the  
20 person collects any information about visitors to the Web site and that describes any  
21 information that is collected and the purposes for which it is collected, including a  
22 description of any information that is sold or provided to 3rd parties. A notice  
23 required under this paragraph shall be in an easily comprehensible format.

24 2. If the person sells or provides information about visitors to the Web site to  
25 3rd parties, allow a visitor to notify the person, at the time that the visitor visits the

1 Web site, whether or not the visitor consents to the sale or provision of such  
2 information.

3 (b) If a visitor notifies a person under par. (a) that the visitor does not consent  
4 to the sale or provision of information specified in par. (a), the person may not sell  
5 or provide the information to 3rd parties.

6 (c) For purposes of par. (a), a person does not maintain a Web site for the  
7 purpose of doing business in this state if the person's involvement with the Web site  
8 is limited only to providing access to the Internet for another person that maintains  
9 the Web site for the purpose of doing business in this state.

10 (d) A person who violates par. (a) or (b) may be required to forfeit not more than  
11 \$10,000 for each violation.

12 **SECTION 9304. Initial applicability; agriculture, trade and consumer**  
13 **protection.**

14 (1) ELECTRONIC MAIL. The treatment of section 141.02 (1) (a), (1m), and (2) of  
15 the statutes first applies to electronic mail messages sent on the effective date of this  
16 subsection.

17 (2) INTERNET PRIVACY.

18 (a) The treatment of section 141.03 (1) (a) of the statutes first applies to  
19 disclosures made on the effective date of this paragraph.

20 (b) The treatment of section 141.03 (1) (b) of the statutes first applies to  
21 requests made on the effective date of this paragraph.

22 **SECTION 9404. Effective dates; agriculture, trade and consumer**  
23 **protection.**





State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb2292/1  
MDK&JK:.....

January 2002 Special Session

*LPS - please update request sheet*

*JL*

LFB:.....Schug - Yank provisions related to electronic mail solicitations and information obtained from Internet web site users \*

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 1

*m 3-6-02*  
*TODAY*

1 At the locations indicated, amend the bill as follows:

2 1. Page 199, line 16: delete the material beginning with that line and ending  
3 *with* ~~on~~ page 204, line 16. ✓

4 2. Page 455, line 10: delete lines 10 to 17. ✓

5 3. Page 466, line 8: delete lines 8 to 10. ✓

6 (END)



State of Wisconsin  
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb2292/1  
MDK&JK:jld:pg

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